

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Frank Edward Johnson,

Civil No. 10-269 (DWF/JJG)

Petitioner,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

State of Minnesota and Minnesota  
Department of Corrections,

Respondents.

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Frank Edward Johnson, *Pro Se*, Petitioner.

Matthew Frank, Assistant Attorney General, Minnesota Attorney General Office, counsel  
for Respondents.

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This matter is before the Court upon Petitioner Frank Edward Johnson's ("Petitioner") objections to Magistrate Judge Jeanne J. Graham's Report and Recommendation dated February 4, 2010, recommending that: (1) Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied; (2) Petitioner's application for leave to proceed *in forma pauperis* be denied; and (3) this action be summarily dismissed without prejudice for lack of jurisdiction. Respondents filed a letter on March 2, 2010 (Doc. No. 5) stating that they concurred with the Report and Recommendation and would not be filing a response to Petitioner's objections.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and

precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

1. Petitioner Frank Edward Johnson's objections (Doc. No. [4]) to Magistrate Judge Jeanne J. Graham's Report and Recommendation dated February 4, 2010, are **DENIED**.

2. Magistrate Judge Jeanne J. Graham's Report and Recommendation dated February 4, 2010 (Doc. No. [3]), is **ADOPTED**.

3. Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, (Doc. No. [1]), is **DENIED**.

4. Petitioner's application for leave to proceed *in forma pauperis*, (Doc. No. [2]), is **DENIED**.

5. This action is summarily **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: April 30, 2010

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge